

**James Madison to George Washington, October 24, 1793. with copy. Transcription: The Writings of James Madison, ed. Gaillard Hunt. New York: G.P. Putnam's Sons, 1900-1910.**

**TO GEORGE WASHINGTON. WASH. MSS.**

Orange October 24th, 1793

Dear Sir

Your letter of the 14th instant<sup>1</sup> did not arrive till sunday night, and being not then at home, I did not receive it till last night. I now lose not a moment in complying with its request; tho' I foresee it cannot reach you before you will have left Mount Vernon, and before you will probably have made up a final determination on some if not all the questions proposed. These are

<sup>1</sup> Given in *Washington's Writings* (Ford), xii., 337. The fever ceased to ravage the city before Congress met, and no action on the President's part was necessary. This was the last opinion given by Madison to Washington. Their relations were no longer cordial.

1. Ought the President to summon Congress at a time and place to be named by him? or
2. If the President has no power to change the place, ought he to abstain from all interposition whatever? or
3. Ought he to notify the obstacle to a meeting at Philadelphia, state the defect of a regular provision for the exigency, and suggest his purpose of repairing to—as a place deemed most eligible for a meeting in the first instance?

## Library of Congress

### 4. What is the place liable to the fewest objections?

From the best investigation I have been able to make in so short a time, the first expedient, tho' most adequate to the exigency, seems to require an authority that does not exist under the Constitution and laws of the U. States.

The only passage in the Constitution in which such an authority could be sought is that which says "The President may, on extraordinary occasions, convene both Houses, or either of them." But the obvious import of these terms is satisfied by referring them to the time only at which the extraordinary meeting is summoned. If indeed they included a discretion as to the place as well as the time, it would be unnecessary to recur to the expedient of altering the time in order to get at an alteration of the place. The President could as well alter the place without interfering with the time, as alter the time without interfering with the place. Besides, the effect of a change as to place would not be in all respects similar to a change as to time. In the latter case, an extraordinary session, running into the period of an ordinary one, would allow the ordinary one to go on under all the circumstances prescribed by law. In the former case, this would not happen. The ordinary part of the Session would be held out of the place prescribed for it, unless prevented by a positive act for returning to it.

The obvious meaning here assigned to the phrase is confirmed by other parts of the Constitution. It is well known that much jealousy has always appeared in everything connected with the residence of the General Government. The solicitude of the Constitution to appease this jealousy is particularly marked by the 1st paragraph of section 6th & the 3d paragraph of section the 7th, of Article I. The light in which these paragraphs must be viewed cannot well be reconciled with a supposition that it was meant to entrust the Executive alone with any power on that subject.

## Library of Congress

Laying aside the Constitution and consulting the law, the expedient seems to be no less inadmissible. The Act of July 1790 “establishing the temporary and permanent seat of the Government

of the U. S.” cannot be understood to leave any such power in the President. And as the power, if exercised so as to interfere with the provision relating to the temporary seat, might beget an alarm lest, in the hands of a President unfriendly to the permanent seat, it should be turned on some pretext or other against that arrangement, prudential reasons unite with legal ones for avoiding the precedent.

The 2d mode of treating the difficulty would seem to be best, if the danger at German Town were out of the way. A voluntary resort to that place might be relied on; and the members of the Legislature finding themselves together and with the President might legalize the necessary steps; or if that should be thought wrong might deliberate and decide for themselves on the emergency. But as the danger might defeat such an expectation it results that,

The 3d expedient is called for by the occasion; and, being sufficient, is all that can be justified by it.

The 4th point to be considered is the delicate one of naming the place.

In deciding this point, it would seem proper to attend *first* to the risk of the infection. This consideration lies, as you observe, against Trenton & Wilmington: secondly, to Northern and Southern jealousies. This applies to N. York and Annapolis: thirdly to the disposition of Pennsylvania, which is entitled to some regard, as well by her calamity as by the circumstance of her being in possession of the Government.

In combining these considerations we are led to look for some place within the State of Pennsylvania not materially different from Philada in relation to North and South. Lancaster and Reading appear to have occurred. With the former I am but little

## Library of Congress

acquainted. The latter I never saw. If the object of the Executive should be merely to put Congress in the most neutral situation possible for choosing a place for themselves, as would have been the case at German Town, Reading seems to have the better pretensions. If the object should be to provide a place at once marking an impartiality in the Executive, and capable of retaining Congress during the Session, Lancaster seems to claim a preference.

If the measure which my present view of the subject favors should be deemed least objectionable, something like the following form might be given to it.

“Whereas a very dangerous and infectious malady which continues to rage in the City of Philada, renders it indispensable that the approaching Session of Congress should be held, as well as the Executive Department be for the present administered, at some other place; And whereas no regular provision exists for such an emergency, so that unless some other place be pointed out at which the members of Congress may assemble in the first instance, great embarrassments may happen: Under these peculiar circumstances I have thought it incumbent on me to notify the obstacle to a meeting of Congress at the ordinary place of their Session; and to recommend that the several members assemble on the day appointed at — in the State of — at which place I shall be ready to meet them.

“G. W. P. U. S.”

With sentiments of the highest respect and attachment I remain, Dear Sir, your affectionate humble servant

### SPEECH ON DISCRIMINATING DUTIES—JANUARY 3, 1794<sup>1</sup>

1 *Annals of Congress, 3d Cong.*, 1793–1795, 155. A test vote in Committee of the Whole showed that the House favored Madison's resolutions, but before they could be acted upon reports of fresh British outrages arrived and gave a more warlike turn to American

## Library of Congress

legislation. Madison made a long and detailed explanation and defense of his resolutions, January 29. *Annals*, 566.

Joshua Barney and several other American captains detained in Jamaica wrote to him commending the resolutions, and Madison replied, May 1, 1794: "Having long regarded the principles on which those Resolutions were founded as the basis of a policy most friendly to the just interests of our country, and most honorable to its public councils, I cannot be insensible to the approbation they may obtain from my fellow-Citizens, and particularly from those more immediately attached to the prosperity of our commerce and navigation. Under this impression I have received the communication transmitted by you in such polite and friendly terms, and I hope it will be believed that I mingle with it all the sympathy which is due to the distresses of those who have been the victims of depredation."— *Mad. MSS.*

Mr. Madison, after some general observations on the Report [of the Secretary of State on commerce], entered into a more particular consideration of the subject. He remarked, that the commerce of the United States is not, at this day, on that respectable footing to which, from its nature and importance, it is entitled. He recurred to its situation previous to the adoption of the Constitution, when conflicting systems prevailed in the different States. The then existing state of things gave rise to that Convention of Delegates from the different parts of the Union, who met to deliberate on some general principles for the regulation of commerce, which might be conducive, in their operation, to the general welfare, and that such measures should be adopted as would conciliate the friendship and good faith of those countries who were disposed to enter into the nearest commercial connexions with us. But what has been the result of the system which has been pursued ever since? What is the present situation of our commerce? From the situation in which we find ourselves after four years' experiment, he observed, that it appeared incumbent on the United States to see whether they could not now take measures promotive of those objects for which the Government was in a great degree instituted. Measures of moderation, firmness, and decision, he was persuaded, were now necessary to be adopted, in order to narrow the

## Library of Congress

sphere of our commerce with those nations who see proper not to meet us on terms of reciprocity.

Mr. M. then read the following resolutions:

“ *Resolved*, as the opinion of this committee, That the interest of the United States would be promoted by further restrictions and higher duties, in certain cases, on the manufactures and navigation of foreign nations employed in the commerce of the United States, than those now imposed.

“1. *Resolved*, as the opinion of this committee, That an additional duty ought to be laid on the following articles, manufactured by European nations having no commercial treaty with the United States: On all articles of which leather is the material of chief value, an additional duty of — per centum *ad valorem*; on all manufactured iron, steel, tin, pewter, copper, brass, or articles of which either of these metals is the material of chief value, an additional duty of — per centum *ad valorem*; on all articles of which cotton is the material of chief value, an additional duty of — per centum *ad valorem*; on all cloths of which wool is the material of chief value, where the estimated value on which the duty is payable, is above —, an additional duty of — per centum *ad valorem*; where such value is below —, an additional duty of — per centum *ad valorem*; on all cloths of which hemp or flax is the material of chief value, and of which the estimated value on which the duty is payable is below —, an additional duty of — per centum *ad valorem*; on all manufactures of which silk is the material of chief value, an additional duty of — per centum *ad valorem*.

“2. *Resolved*, as the opinion of this committee, That an additional duty of — per ton, ought to be laid on the vessels belonging to the nations having no commercial treaty with the United States.

## Library of Congress

“3. *Resolved*, as the opinion of this committee, That the duty on vessels belonging to the nations having commercial treaties with the United States, ought to be reduced to — per ton.

“4. *Resolved*, as the opinion of this committee, That where any nation may refuse to consider as vessels of the United States, any vessels not built within the United States, the foreign built vessels of such nation ought to be subjected to a like refusal, unless built within the United States.

“5. *Resolved*, as the opinion of this committee, That, where any nation may refuse to admit the produce or manufactures of the United States, unless in vessels belonging to the United States, or to admit them in vessels of the United States, if last imported from any place not within the United States, a like restriction ought, after the — day of —, to be extended to the produce and manufactures of such nation, and that, in the mean time, a duty of — per ton extraordinary ought to be imposed on vessels so importing any such produce or manufacture.

“6. *Resolved*, as the opinion of this committee, That, where any nation may refuse to the vessels of the United States a carriage of the produce or manufactures thereof, whilst such produce or manufactures are admitted by it in its own vessels it would be just to make the restriction reciprocal; but, inasmuch as such a measure, if suddenly adopted, might be particularly distressing in cases which merit the benevolent attention of the United States, it is expedient, for the present, that a tonnage extraordinary only of —, be imposed on the vessels so employed; and that all distilled spirits imported therein shall be subject to an additional duty of one — part of the existing duty.

“7. *Resolved*, as the opinion of this committee, That provision ought to be made for liquidating and ascertaining the losses sustained by citizens of the United States, from the operation of particular regulations of any country contravening the Law of Nations, and that such losses be reimbursed, in the first instance, out of the additional duties on

## Library of Congress

the manufactures, productions, and vessels of the nation establishing such unlawful regulations.”

Mr. M. took a general view of the probable effects which the adoption of something like the resolutions he had proposed, would produce. They would produce, respecting many articles imported, a competition which would enable countries who do not now supply us with those articles, to do it, and would increase the encouragement on such as we can produce within ourselves. We should also obtain an equitable share in carrying our own produce; we should enter into the field of competition on equal terms, and enjoy the actual benefit of advantages which nature and the spirit of our people entitle us to.

He adverted to the advantageous situation this country is entitled to stand in, considering the nature of our exports and returns. Our exports are bulky, and therefore must employ much shipping, which might be nearly all our own: our exports are chiefly necessities of life, or raw materials, the food for the manufacturers of other nations. On the contrary, the chief of what we receive from other countries, we can either do without, or produce substitutes.

It is in the power of the United States, he conceived, by exerting her natural rights, without violating the rights, or even the equitable pretensions of other nations—by doing no more than most nations do for the protection of their interests, and much less than some, to make her interests respected; for, what we receive from other nations are but luxuries to us which, if we choose to throw aside, we could deprive part of the manufacturers of those luxuries, of even bread, if we are forced, to the contest of self-denial. This being the case, our country may make her enemies feel the extent of her power. We stand, with respect to the nation exporting those luxuries, in the relation of an opulent individual to the laborer, in producing the superfluities for his accommodation; the former can do without those luxuries, the consumption of which gives bread to the latter.



## Library of Congress

He did not propose, or wish that the United States should, at present, go so far in the line which his resolutions point to, as they might go. The extent to which the principles involved in those resolutions should be carried, will depend upon filling up the blanks. To go to the very extent of the principle immediately, might be inconvenient. He wished, only, that the Legislature should mark out the ground on which we think we can stand; perhaps it may produce the effect wished for, without unnecessary irritation; we need not at first go every length.

Another consideration would induce him, he said, to be moderate in filling up the blanks—not to wound public credit. He did not wish to risk any sensible diminution of the public revenue. He believed that if the blanks were filled with judgment, the diminution of the revenue, from a diminution in the quantity of imports, would be counterbalanced by the increase in the duties.

The last resolution he had proposed, he said, is, in a manner, distinct from the rest. The nation is bound by the most sacred obligation, he conceived, to protect the rights of its citizens against a violation of them from any quarter; or, if they cannot protect, they are bound to repay the damage.

It is a fact authenticated to this House by communications from the Executive, that there are regulations established by some European nations, contrary to the Law of Nations, by which our property is seized and disposed of in such a way that damages have accrued. We are bound either to obtain reparation for the injustice, or compensate the damage. It is only in the first instance, no doubt, that the burden is to be thrown upon the United States. The proper Department of Government will, no doubt, take proper steps to obtain redress. The justice of foreign nations will certainly not permit them to deny reparation when the breach of the Law of Nations appear evidently; at any rate, it is just that the individual

## Library of Congress

should not suffer. He believed the amount of the damages that would come within the meaning of this resolution, would not be very considerable.